

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:35 a.m. on Tuesday, February 3, 2004, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor Statutes  
Helen Pedigo, Office of the Revisor Statutes  
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Maribeth Kehl, Clerk of the District Court, Linn County  
Jeanne Turner, Chief Clerk, 5<sup>th</sup> Judicial District, Lyon County  
John Steelman, Court Administrator, 4<sup>th</sup> Judicial District

Others attending:

See Attached List.

Chairman Vratil called for bill introductions, and there were none.

**SB 315 - Requiring a \$20 domestic post-decree motion fee on any domestic post-decree motion**

Chairman Vratil opened the hearing on **SB 315**. Maribeth Kehl testified in support of **SB 315**, and as a representative of the Kansas Association of District Court Clerks and Administrators. She stated the proposed bill would amend K.S.A. 60-1621. It would allow court staffs to expedite and more efficiently process post-decree motions by assessing a docket fee for all post-decree motions filed under this statute. (Attachment 1)

Having no other conferees appear to testify on the proposed bill, the Chair closed the hearing on **SB 315**.

**SB 316 - Requiring judges to sign executions and orders of sale**

Chairman Vratil opened the hearing on **SB 316**. Jeanne Turner testified in support of the proposed bill which would clarify procedures set forth in K.S.A. 60-2401(b) as to who sign executions and orders of sale. She explained that the statute, as currently written, states that executions and orders of sale shall be issued by the clerk at the request of any interested person and directed to the appropriate officers of the counties where they are to be levied. Ms. Turner said that no where in the statute is specific wording found to define who is to sign the executions or orders. She added that in practice there are clerks signing them as well as judges.

Ms. Turner stated that because executions and an order of sale are a directive to an officer to seize property and cause it to be sold in satisfaction of a judgment, the proposed amendment would change the subsection ..."executions and orders of sale shall be issued by the clerk and signed by the judge." The change would eliminate clerks from the responsibility of ensuring that all journal entries have been filed and all appeal time has passed. (Attachment 2)

Committee questions related to whether the judges knew about the requested change, and Ms. Turner stated that it was presented to the District Court Judges Association. The judges are aware of it, and are fine with the change.

Chairman Vratil inquired if there were any other individuals who wished to testify on **SB 316**, and seeing none, closed the hearing.

Chairman Vratil asked Senator Betts to introduce his special guests. Senator Betts introduced the cast and crew of the traveling Broadway musical show "Kiss Me Kate" from Manhattan, New York, who would be performing tonight at the Topeka Performing Arts Center. He explained that the Company would be traveling and performing for nine months in 103 cities and 33 states. The Committee gave them a warm welcome to the State Capitol of Kansas.

CONTINUATION SHEET

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**SB 317 - Eliminating the requirement that subpoenaed business records be held indefinitely by the clerk of the district court**

Chairman Vratil opened the hearing on **SB 317**. John Steelman testified on behalf of the Kansas Association of Court Clerks and Court Administrators in support of **SB 317** which contains proposed changes to K.S.A. 60-245a. (Attachment 3)

Mr. Steelman explained that the first requested change to K.S.A. 60-245a involved business records that have been subpoenaed. Association members would like to include language in the statute to allow the Clerks of District Court to, either return the subpoenaed records to the parties who submitted them or destroy business records that were not entered into evidence as part of the case record sixty days after termination of the case.

Mr. Steelman said that the second request for amendment would be to K.S.A. 60-245a(2)(b) with the addition of the following language: "Sixty days after the termination of the case, records not introduced in evidence or required as part of the records may be destroyed or returned to the custodian of the records who submitted them, if return has been requested." He explained that Clerks of District Court offices continue to experience severe shortages in vault space needed to house court records. He added that currently Clerks of Court have no specific authorization to destroy or return the subpoenaed business records.

Following brief comments and questions, Senator Oleen inquired if this bill could possibly be an amendable bill instead of a new bill. The Chairman asked for clarification on the number of days desired after termination of the case. He pointed out that Mr. Steelman's testimony said 60 days, and the drafted bill denoted 30 days. Mr. Steelman replied that 30 days would give them sufficient time.

Committee discussion and questions continued regarding defining the termination of a case, and clarification as to the difference between a Court Administrator and a Clerk of the District Court.

Chairman Vratil closed the hearing on **SB 317**.

Sub-Committee assignments were announced by the Chairman. Senator Pugh was assigned to chair one sub-committee with Senator Betts and Senator Allen on the committee. The bills assigned were **SB 321**, **SB 322**, **SB 350**, **SB 354**, and **SB 389**. Senator Schmidt was assigned to chair the second sub-committee with Senator Goodwin and Senator Donovan on the committee. The bills assigned to the second sub-committee were: **SB 318**, **SB 319**, **SB 343**, **SB 356**, and **SB 357**.

**Final Action on:**

**SB 298 - Creation of docket fees for garnishments**

Chairman Vratil called for discussion and final action on **SB 298**. The Chairman explained the bill, and referred to proposed technical amendments previously described by Kathy Porter, Office of Judicial Administration. He clarified the requested amendments, and stated the most substantive one was to add to the bill garnishments under Chapter 61. (Attachment 4)

Senator Pugh made a motion to amend the bill in line 22 and replace State General Fund with Judicial Branch Fund. The motion was seconded by Senator O'Connor. Committee discussion followed with the clarification by Chairman Vratil. Previously, the Committee discussed reducing the number of separate funds to which the Statute requires allocation of money. He explained that if the Committee indicated a desire to put all the money in the Judicial Branch Fund and let the Supreme Court divide it between the various needs according to their determination of what is best rather than the Legislature telling them how to do it. He added that the amendment suggested by the Office of Judicial Administration would be contrary to this, and that Senator Pugh's motion would be in line with the Committee's philosophy

Chairman Vratil called for a vote on Senator Pugh's amendment. The motion carried.

Senator O'Connor made a motion to adopt Office of Judicial Administration's balloon amendment and in so doing renumber Sections 2 and 3 to Sections 3 and 4 with the authority the Revisor to make any necessary technical amendments, seconded by Senator Donovan, and the motion carried.

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Senator Donovan moved to recommend **SB 298** favorably for passage as amended, seconded by Senator Goodwin, and the motion carried.

**SB 315 - Requiring a \$20 domestic post-decree motion fee on any domestic post-decree motion**

Chairman Vratil called for discussion and final action on **SB 315**. He explained amendments that will be in a balloon he has instructed staff to prepare. Chairman Vratil called attention to the line immediately preceding the words “No post-decree motions”, and inserting “**In an action of divorce or separate maintenance**”. The Chair explained the purpose of the amendment was to make it clear that the statute applies to domestic relations cases and no other type of cases. He said the other portion of the amendment, beginning on line 18 with the word “during” striking that word and all subsequent wording through July 1, 2005 on line 20. He said that language was no longer necessary. The Revisor offered alternative language “**in any Article 16, Chapter 60 case**” for the first part of the amendment, and the Chairman agreed that was better language.

Senator Donovan made a motion to make the amendments as described, seconded by Senator Goodwin, and the motion carried.

Brief discussion followed regarding fiscal impact the bill could possibly have, which according to Office of Judicial Administration, would be none, and whether this was a policy shift. (Attachment 5) Following clarification regarding policy change, the Chairman called for a motion on the bill. Senator Goodwin made a motion to recommend **SB 315** favorably as amended for passage, seconded by Senator Oleen, and the motion carried.

Minutes for the January 15 and January 20 meetings were presented for approval. Senator Schmidt made a motion to approve the minutes as written, seconded by Senator Donovan, and the motion carried.

The meeting was adjourned at 10:30 a.m. The next scheduled meeting is February 3, 2004.